

ORIGINAL

Mitchell F. Boomer (State Bar No. 121441)  
Janine R. Hudson (State Bar No. 206671)  
JACKSON LEWIS LLP  
199 Fremont Street, 10th Floor  
San Francisco, California 94105  
Telephone: (415) 394-9400  
Facsimile: (415) 394-9401

Attorneys for Defendant  
PFIZER, INC.

E-filing

FILED  
APR -7 PM 2:23  
RICHARD W. WIEKING  
CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

BZ

CV 08

1849

RANDALL J. SLOAN,

Plaintiff,

v.

PFIZER, INC., a Delaware corporation; and  
DOES 1 through 40, inclusive.

Defendant.

Case No.

**NOTICE OF REMOVAL OF ACTION  
TO FEDERAL COURT  
[28 U.S.C. § 1441(a)]**

TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF CALIFORNIA:

PLEASE TAKE NOTICE that Defendant PFIZER, INC. ("Defendant" or  
"Pfizer") hereby removes to this Court the state court action described below:

1. On December 11, 2007, Plaintiff RANDALL J. SLOAN ("Plaintiff")  
commenced the action entitled Randall J. Sloan v. Pfizer, Inc., a Delaware corporation; and  
DOES 1 through 40, by filing a complaint ("Complaint") against Defendant in the Superior  
Court of the State of California, County of San Francisco, Case No. CGC 07-469930.

2. Plaintiff's Complaint alleges the following causes of action: (1) disability  
discrimination pursuant to California Government Code section 12940 *et seq*; (2) gender and  
sexual orientation discrimination pursuant to California Government Code section 12940 *et seq*;

1 (3) wrongful termination in violation of public policy; (4) retaliation pursuant to California  
2 Government Code section 12940 *et seq*; (5) breach of covenant of good faith and fair dealing;  
3 (6) intentional infliction of emotional distress; and (7) negligent infliction of emotional distress.

4 3. Defendant first received a copy of the Complaint on March 7, 2008, when  
5 Defendant was served with a copy of the Summons and Complaint. A copy of the Summons  
6 and Complaint are attached hereto as **Exhibit A**. A true copy of the case file from the San  
7 Francisco Superior Court, which includes an additional copy of the Complaint, as well as  
8 Defendant's timely filed Answer to the Complaint, is attached hereto collectively as **Exhibit B**.

9 4. This Notice of Removal has been timely filed under 28 U.S.C. Section  
10 1446(b) because it was filed within 30 days after Defendant's receipt of Plaintiff's Complaint.

11 5. No further proceedings have occurred in the state action, other than the  
12 filing of the Complaint and Answer.

13 6. This action is a civil action of which this Court has original jurisdiction  
14 under 28 U.S.C. Section 1332(a), and is one which may be removed to this Court by Defendant  
15 pursuant to the provisions of the 28 U.S.C. Section 1441(a) in that, as shown below, it is a civil  
16 action between citizens of different states and the matter in controversy exceeds the sum of  
17 \$75,000, exclusive of interest and costs.

18 7. Without conceding that Plaintiff is entitled to damages or could recover  
19 damages in any amount, the amount in controversy in this action exceeds \$75,000 based on the  
20 following:

21 a. Although the complaint does not state the amount of the matter in  
22 controversy, defense counsel specializes in representing employers in labor and  
23 employment matters, and in particular, disability and gender discrimination, wrongful  
24 termination and retaliation. Plaintiff alleges that he was terminated on or about January  
25 8, 2007 and that he has suffered and continues to suffer substantial losses in income,  
26 earnings and benefits. (Complaint, ¶¶ 24, 27). Plaintiff's estimated annual salary at the  
27 time of termination was over \$75,000. Plaintiff also seeks damages for alleged "severe  
28 emotional distress . . . mental pain and anguish." (Complaint, ¶ 62.) As the amount in

1 controversy includes compensatory damages (lost wages and benefits and future wage  
2 loss), emotional distress damages, and attorney's fees, Plaintiff's alleged damages in this  
3 action exceed the jurisdictional limit. See *Simmons v. PCR Technology*, 209 F. Supp.2d  
4 1029, 1034-135 (N.D. Cal. 2002) [amount in controversy for race discrimination action  
5 satisfied by plaintiff seeking unspecified compensatory damages (lost wages, medical  
6 expenses and future wage loss), punitive damages, emotional distress damages and  
7 attorney's fees)].

8 b. Plaintiff also seeks punitive damages for claims brought pursuant to the  
9 California Fair Employment and Housing Act ("FEHA"), Cal Gov't. Code § 12900 *et*  
10 *seq.* (Complaint, ¶¶ 26, 33, 41, 47, 59) Punitive damages awards are available under  
11 FEHA (Cal. Gov't Code § 12940). Therefore, the Court may consider punitive damages  
12 when determining the amount in controversy. *Simmons*, at 1034.

13 Based on defense counsel's experience and expertise, the nature of the allegations  
14 in the complaint, the applicable case law and the relief sought by Plaintiff, the amount in  
15 controversy exceeds the sum of \$75,000, exclusive of interest and costs.

16 8. This action is between citizens of different states, in that Defendant Pfizer  
17 is informed and believes that Plaintiff Randall Sloan was at the time the action commenced, and  
18 still is, a citizen of the State of California.

19 9. Defendant Pfizer was at the time the action commenced, and still is, a  
20 Delaware corporation with a principal place of business in New York. For purposes of  
21 determining diversity, a corporation is deemed to be a citizen of both the state of its  
22 incorporation and of the state where it maintains its principal place of business. See 28 U.S.C.  
23 Section 1332(c).

24 10. Pfizer's world headquarters is located in New York, New York. The  
25 majority of Pfizer's executive officers, including its Chief Executive Officer and Chairman of  
26 the Board, maintain offices in New York. Pfizer is a research-based, global pharmaceutical  
27 company. The Company discovers, develops, manufactures and markets prescription medicines  
28 for humans and animals, as well as many of the world's consumer healthcare products.

11. For purposes of determining whether diversity of citizenship exists, only the named defendants are considered. The presence of doe defendants has no bearing on diversity with respect to removal. *See* 28 U.S.C. Section 1441(a).

12. For all the foregoing reasons, this Court has original jurisdiction over this matter under 28 U.S.C. Sections 1332 and 1441(a).

WHEREFORE, Defendant prays that the above action now pending against it in the Superior Court for the State of California, County of San Francisco, be removed to this Court.

DATED: April 7, 2008

Respectfully submitted,

JACKSON LEWIS LLP

By



Mitchell F. Boomer  
Janine R. Hudson  
Attorneys for Defendant  
PFIZER, INC.

3/7/08 1240P SUM-100

**SUMMONS  
(CITACION JUDICIAL)****NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

PFIZER, INC., a Delaware corporation; **AND DOES 1**  
**THROUGH 40, INCLUSIVE**

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

**RANDALL J. SLOAN**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

**Tiene 30 DÍAS DE CALENDARIO** después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es): **San Francisco County Superior Court**  
**400 McAllister Street**  
**San Francisco, CA 94102**

CASE **08C-07-469930**  
 (Número de caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

**Daniel P. Iannitelli, FOTOUHI • EPPS • HILLGER • GILROY LLP**  
**160 Pine Street, Suite 710, San Francisco, CA 94111, (415) 362-9300**

**M. RAYRAY**

DATE:

(Fecha)

**DEC 11 2007**

Clerk, by

(Secretario)

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

**NOTICE TO THE PERSON SERVED: You are served**

1. ☐ as an individual defendant.  
 2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): **PFIZER INC.**

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):

4. ☐ by personal delivery on (date):

(SEAL)

1 **Daniel P. Iannitelli - 203388**  
2 **Bryan L. Saalfeld - 243331**  
3 FOTOUHI • EPPS • HILLGER • GILROY LLP  
4 160 Pine Street, Suite 710  
San Francisco, CA 94111  
Tel: 415.362.9300  
Fax: 415.358.5521

5 Attorneys for Plaintiffs  
6 RANDALL J. SLOAN

**ENDORSED  
FILED**  
San Francisco County Superior Court

DEC 11 2007

GORDON PARK-LI, Clerk  
BY MICHAEL RAYRAY  
Deputy Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF SAN FRANCISCO - UNLIMITED JURISDICTION

10 RANDALL J. SLOAN, an individual,

11 Plaintiff,

12 vs.

13 PFIZER, INC., a Delaware corporation; and  
DOES 1 through 40, inclusive,

14 Defendants.

Case No. **CGC-07-469 93.0**

**COMPLAINT FOR DAMAGES**

**CASE MANAGEMENT CONFERENCE SET**

MAY 09 2008 9AM

**DEPARTMENT 212**

16 COMES NOW Plaintiff and files this Complaint against Defendants on behalf of himself, and  
17 in support thereof alleges the following:

18 **PARTIES**

- 19 1. Plaintiff RANDALL SLOAN (hereinafter referred to as "Plaintiff") is an individual and a  
20 resident of the State of California.
- 21 2. Plaintiff is informed, and thereon alleges, that defendant PFIZER, INC., is a Delaware  
22 corporation, and is authorized to transact business in the State of California.
- 23 3. Plaintiff does not know the true names and capacities of defendants designated as  
24 Does 1 through 40 inclusive, whether individual, corporate, associate or otherwise, and therefore  
25 sues said defendants by such fictitious names pursuant to the California Code of Civil Procedure.
- 26 Plaintiff is informed and believes and thereon alleges that each of the fictitiously named defendants  
27 is responsible in some manner for the occurrences herein alleged and that Plaintiff's injuries as  
28 herein alleged were proximately caused by their wrongful conduct. Plaintiff will amend its Complaint

1 when the true names and capacities of said defendants are revealed or become known.

2 4. Plaintiff is informed and believes and thereon allege that at all times mentioned in  
3 this Complaint, each of the defendants, whether specifically named or designated as a Doe, was the  
4 agent, servant, employee or officer of the other, and all acts alleged to have been committed by one  
5 of them was committed by and on behalf of every other and in doing the acts herein alleged, was  
6 acting within the course and scope of said agency, employment and service with the advance  
7 knowledge, consent and ratification of the remaining defendants.

8 5. Venue is appropriate because defendant PFIZER, INC., is authorized to transact business in  
9 the State of California and transacts business in the City and County of San Francisco. Plaintiff is a  
10 resident of State of California, City and County of San Francisco.

11 **STATEMENT OF FACTS**

12 6. From on or about October 1, 2001, to on or about January 8, 2007, Plaintiff was employed  
13 by Defendant PFIZER, INC, as an Associate, in the Clinical Developmental Group.

14 7. At times herein mentioned, Plaintiff was a individual protected, on the basis of his sexual  
15 orientation, gender, mental disability and physical disability, under Cal. Govt. Code §12940(a).

16 8. Since the inception of his employment with Defendants, Plaintiff was openly Gay and this fact  
17 was understood by Plaintiff's employer, supervisors and co-workers. Throughout his employment,  
18 Plaintiff worked tirelessly to perform beyond expectations and to develop professionally within the  
19 company. In addition to his achievements at his position, Plaintiff actively sought mentoring and  
20 training opportunities as outlined in defendant PFIZER, INC.'s policies. Plaintiff also sought  
21 promotions for which he was qualified.

22 9. Despite Plaintiff's excellence in the performance of his duties and efforts to grow  
23 professionally, Defendants, on the basis of his sexual orientation and gender, refused to approve  
24 Plaintiff's efforts to seek mentoring through its Open Door Policy and to seek guidance in his  
25 development. Plaintiff was also denied promotions on the basis of his sexual orientation and gender.  
26 Within Plaintiff's team, he was the only male and only non-heterosexual. Plaintiff's heterosexual  
27 female co-workers received mentoring, training opportunities, higher performance reviews, higher  
28 compensation and better treatment as employees. Plaintiff complained about the unfair and

1 discriminatory conduct to his immediate supervisor. Defendants' conduct in refusing to assist Plaintiff  
2 in his professional development, per PFIZER, INC.'s policies, and refusal to promote Plaintiff, was on  
3 the basis of his sexual orientation and gender, and for opposing Defendants' discriminatory actions.

4 10. In or around November 2004, Plaintiff began making formal complaints to the Human  
5 Resources department about the discrimination and retaliation he was enduring. Plaintiff also  
6 continued to address his concerns to, and demand from, his immediate supervisor that he be treated  
7 fairly under the law, as well as PFIZER, INC.'s anti-discrimination and retaliation policies. Plaintiff's  
8 complaints to Human Resources were not investigated and no action was taken to prevent further  
9 discrimination.

10 11. In or around May 2005, Plaintiff was diagnosed with human immunodeficiency virus (HIV).  
11 Shortly thereafter, Plaintiff was also diagnosed with mental disabilities.

12 12. In or around July 2005, pursuant to Plaintiff's physicians recommendations and orders,  
13 Plaintiff requested from Defendants that he be provided an accommodation of being able to work  
14 from home (telecommute), or that some other reasonable accommodation be made. Defendants  
15 denied Plaintiff's request despite the fact that one of his co-workers, a heterosexual female, was  
16 permitted to telecommute from another state for six (6) months simply to facilitate the preparations of  
17 her wedding.

18 13. Plaintiff made repeated requests for a reasonable accommodation which were denied by  
19 Defendants. Instead, PFIZER, INC. insisted that Plaintiff apply for Short Term Disability (STD) under its  
20 STD Plan, which Plaintiff reluctantly agreed to do. Acting unreasonable in administering his  
21 application, PFIZER, INC.'s conduct resulted in needless delay in obtaining benefits which were  
22 provided only after Plaintiff's extensive efforts.

23 14. Without adequate warning and a reasonable basis, Defendants cancelled Plaintiff's STD  
24 benefits and ordered him to return to work on December 12, 2006. Defendants did so in violation of  
25 its own policies and applicable law. This unexpected demand occurred a few days after Plaintiff  
26 inquired about PFIZER, INC.'s policies regarding gender reassignment and further communications  
27 with human resources regarding prior complaints of, and ongoing, discrimination and retaliation.

28 //

1 15. On December 12, 2006, Plaintiff returned to work from his interrupted disability leave,  
2 performing his duties by telecommuting.

3 16. On or about February 1, 2006, due to his physical disabilities, Plaintiff was  
4 again placed on STD and was on medical leave until August 1, 2006. As a result of continued  
5 disabilities, plaintiff requested further extension of his STD as permitted by PFIZER, INC.'s policies, as  
6 well as placement in other positions within the company for which Plaintiff was qualified. PFIZER  
7 refused such accommodations and terminated Plaintiff.

8 **FIRST CAUSE OF ACTION**

9 **(Physical and Mental Disability Discrimination)**

10 17. Plaintiff realleges paragraphs 1 through 16, inclusive, of this Complaint and incorporates  
11 them herein by reference.

12 18. Plaintiff suffers from physical and mental disabilities, as diagnosed by medical physicians  
13 and acknowledged by Defendants, and is therefore a member of the class of persons protected from  
14 mental and physical disability discrimination under California Government Code section 12940 et  
15 seq.

16 19. Defendants regularly employ five or more persons and therefore are employers subject to  
17 regulation by California Government Code §12940.

18 20. Defendants refused to make reasonable accommodations for Plaintiff's known mental and  
19 physical disabilities by terminating Plaintiff because, in part, he was placed on medical-mental  
20 disability leave by his physician. Despite Plaintiff's repeated requests, Defendants failed to engage in  
21 an interactive process to find a reasonable accommodation.

22 21. Defendants unlawfully subjected Plaintiff to adverse employment actions by, among other  
23 things, harassing Plaintiff, retaliating against Plaintiff, treating Plaintiff differently than other similarly  
24 situated employees, because of his disability.

25 22. Plaintiff is informed and believes, and thereon alleges, that Plaintiff's employment was  
26 terminated by Defendants because of his physical and mental disability, in violation of California  
27 Government Code §12940 et seq.

28 23. Within one-year from the date of the most recent act of discrimination, Plaintiff filed a

1 charge of physical and mental disability discrimination, and other violations including gender and  
2 sexual orientation discrimination, with the California Department of Fair Employment and Housing.  
3 On or about December 12, 2006, Plaintiff received a right to sue notice from the California  
4 Department of Fair Employment and Housing and subsequently amended. *A true and correct copy*  
5 *of the DFEH Right to Sue letter is attached hereto as Exhibit A.*

6 24. As a direct and proximate result of the Defendants' conduct, Plaintiff has suffered and  
7 continues to suffer substantial losses in income, earnings and benefits and has been damaged in his  
8 capacity to earn his salary, and has lost and will continue to lose employment benefits.

9 27. As a direct and proximate result of the Defendants' conduct, Plaintiff has suffered and  
10 continues to suffer severe and serious injury to his person, all to Plaintiff's damage in a sum within  
11 the jurisdiction of this Court and to be shown according to proof.

12 26. The conduct of Defendants in discriminating against Plaintiff and terminating him because  
13 of his disabilities subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's  
14 rights. Plaintiff is informed and believes, and thereon alleges, that his termination by Defendants,  
15 and each of them, was done with an intent to cause injury to Plaintiff. As a consequence of the  
16 aforesaid oppressive, malicious and despicable conduct, Plaintiff is entitled to an award of punitive  
17 damages in a sum to be shown according to proof.

## 18 **SECOND CAUSE OF ACTION**

### 19 **(Gender and Sexual Orientation Discrimination)**

20 27. Plaintiff realleges paragraphs 1 through 26, inclusive, of this Complaint and incorporates  
21 them herein by reference.

22 28. Plaintiff is a Gay male and is therefore a member of the classes of persons protected from  
23 gender, sexual orientation and gender assignment discrimination under California Government  
24 Code section 12940 et seq.

25 29. Defendants discriminated against Plaintiff, on the basis of his sexual orientation and gender,  
26 by failing to provide the same employment benefits offered to other similarly situated, straight  
27 females, including not receiving mentoring, training opportunities, higher performance reviews,  
28 higher compensation, exclusion from proximity to management, promotions and fair treatment.

1 30. Defendants discriminated against Plaintiff, on the basis of his sexual orientation and gender,  
2 by not offering him the same opportunities as other co-workers and by refusing to reassign plaintiff  
3 to another position within the company and by terminating him.

4 31. As a direct and proximate result of the Defendants' conduct, Plaintiff has suffered and  
5 continues to suffer substantial losses in income, earnings and benefits and has been damaged in his  
6 capacity to earn his salary, and has lost and will continue to lose employment benefits.

7 32. As a direct and proximate result of the Defendants' conduct, Plaintiff has suffered and  
8 continues to suffer severe and serious injury to his person, all to Plaintiff's damage in a sum within  
9 the jurisdiction of this Court and to be shown according to proof.

10 33. The conduct of Defendants in discriminating against Plaintiff and terminating him because  
11 of his disability subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's  
12 rights. Plaintiff is informed and believes, and thereon alleges, that his termination by Defendants,  
13 and each of them, was done with an intent to cause injury to Plaintiff. As a consequence of the  
14 aforesaid oppressive, malicious and despicable conduct, Plaintiff is entitled to an award of punitive  
15 damages in a sum to be shown according to proof.

16 **THIRD CAUSE OF ACTION**

17 **(Wrongful Termination in Violation of Public Policy)**

18 34. Plaintiff realleges paragraphs 1 through 33, inclusive, of this Complaint and incorporates  
19 them herein by reference.

20 35. Plaintiff is informed and believes, and thereon alleges, that Plaintiff's employment was  
21 terminated by Defendants because of, among other things, his physical and mental disabilities, in  
22 violation of California Government Code §12940 et seq.

23 36. Plaintiff is informed and believes, and thereon alleges, Plaintiff's employment was also  
24 terminated by Defendants because of his sexual orientation, gender and exploration of gender  
25 reassignment in violation of California Government Code §12940 et seq.

26 37. As a direct and proximate result of the Defendants' conduct, Plaintiff has suffered and  
27 continues to suffer substantial losses in income, earnings and benefits and has been damaged in his  
28 capacity to earn his salary, and has lost and will continue to lose employment benefits.

1 38. As a direct and proximate result of the Defendants' conduct, Plaintiff has suffered and  
2 continues to suffer severe and serious injury to his person, all to Plaintiff's damage in a sum within  
3 the jurisdiction of this Court and to be shown according to proof.

4 39. As a direct and proximate result of the misconduct and unlawfulness of Defendants, and  
5 each of them, and the resulting termination of Plaintiff's employment, Plaintiff has suffered harm  
6 including, but not limited to, humiliation, embarrassment, and mental anguish, all to Plaintiff's  
7 damage to be shown according to proof.

8 41. The conduct of Defendants in discriminating against Plaintiff, terminating him because  
9 of his disability, and to deny him benefits, subjected Plaintiff to cruel and unjust hardship in  
10 conscious disregard of Plaintiff's rights. Plaintiff is informed and believes, and thereon alleges, that  
11 his termination by Defendants, and each of them, was done with an intent to cause injury to Plaintiff.  
12 As a consequence of the aforesaid oppressive, malicious and despicable conduct, Plaintiff is entitled  
13 to an award of punitive damages in a sum to be shown according to proof.

14  
15 **FOURTH CAUSE OF ACTION**

16 **(Retaliation)**

17 42. Plaintiff realleges paragraphs 1 through 41, inclusive, of this Complaint and incorporates  
18 them herein by reference.

19 43. Plaintiff is informed and believes, and thereon alleges, that the adverse employment  
20 actions taken against him by Defendants as set forth herein occurred in retaliation for being on  
21 disability leave, asserting his rights as Gay individual and a disabled individual, as well as Plaintiff's  
22 complaints of unlawful discriminatory treatment, harassment and adverse treatment in his  
23 employment with Defendants. Such actions are unlawful, discriminatory and retaliatory in violation  
24 of Government Code section 12940 et seq. and have resulted in damages to Plaintiff.

25 44. As a direct and proximate result of the Defendants' conduct, Plaintiff has suffered and  
26 continues to suffer substantial losses in income, earnings and benefits and has been damaged in his  
27 capacity to earn his salary, and has lost and will continue to lose employment benefits.

28 45. As a direct and proximate result of the Defendants' conduct, Plaintiff has suffered and

1 continues to suffer severe and serious injury to his person, all to Plaintiff's damage in a sum within  
2 the jurisdiction of this Court and to be shown according to proof.

3 46. As a direct and proximate result of the misconduct and unlawfulness of Defendants, and  
4 each of them, and the resulting termination of Plaintiff's employment, Plaintiff has suffered harm  
5 including, but not limited to, humiliation, embarrassment, and mental anguish, all to Plaintiff's  
6 damage to be shown according to proof.

7 47. The conduct of Defendants in discriminating against Plaintiff and retaliating against him  
8 because of his disability subjected Plaintiff to cruel and unjust hardship in conscious disregard of  
9 Plaintiff's rights. Plaintiff is informed and believes, and thereon alleges, that his termination by  
10 Defendants, and each of them, was done with an intent to cause injury to Plaintiff. As a  
11 consequence of the aforesaid oppressive, malicious and despicable conduct, Plaintiff is entitled to  
12 an award of punitive damages in a sum to be shown according to proof.

13 **FIFTH CAUSE OF ACTION**

14 **(Breach of the Covenant of Good Faith and Fair Dealing)**

15 48. Plaintiff realleges paragraphs 1 through 47, inclusive, of this Complaint and incorporates  
16 them herein by reference.

17 49. The employment agreement referred to above contained an implied covenant of good faith  
18 and fair dealing, which obligated Defendants to perform the terms and conditions of the agreement  
19 fairly and in good faith and refrain from doing any act that would prevent or impede Plaintiff from  
20 performing any and all of the conditions of the contract that he agreed to perform, or any act that  
21 would deprive Plaintiff of the benefits of the contract.

22 50. Plaintiff performed all the duties and conditions of the employment agreement.

23 51. Defendants knew that Plaintiff had fulfilled his duties and conditions under the agreement.

24 52. Defendants breached the implied covenant of good faith and fair dealing under the  
25 employment agreement by causing Plaintiff's termination intentionally, in bad faith and for reasons  
26 extraneous to the agreement. Plaintiff is informed and believes, and thereon alleges, that  
27 Defendants terminated Plaintiff without good, just or legitimate cause. Plaintiff is informed and  
28 believes and thereon alleges that Defendants terminated him because, among other things, of his

1 gender, sexual orientation, disabilities and complaints regarding adverse employment actions.

2 53. As a proximate result of Defendants' breach of the implied covenant of good faith and fair  
3 dealing, Plaintiff has suffered, and continues to suffer, losses in earnings and other employment  
4 benefits, and consequential economic damages to his damage in an amount to be shown according  
5 to proof.

### 6 **SIXTH CAUSE OF ACTION**

#### 7 **(Intentional Infliction of Emotional Distress)**

8 54. Plaintiff realleges paragraphs 1 through 53, inclusive, of this Complaint and incorporates  
9 them herein by reference.

10 55. Plaintiff is informed and believes, and thereon alleges, that the actions of Defendants, and  
11 each of them, discriminated against Plaintiff, harassed Plaintiff, retaliated against Plaintiff, and  
12 engaged in other misconduct against Plaintiff because of his gender, sexual orientation, disability,  
13 and causing Plaintiff's employment to be terminated in contravention of public policy, as aforesaid,  
14 was intentional, extreme, outrageous and done with the intent to cause emotional distress or with  
15 reckless disregard of the probability of causing Plaintiff such emotional distress.

16 56. As a direct and proximate cause of the Defendants' conduct, Plaintiff has been subjected  
17 to severe emotional distress and will continue to suffer severe and permanent humiliation, mental  
18 pain and anguish, and will continue to live in a constant state of emotional tension and distress.

19 57. As a direct and proximate result of Defendants, and each of their actions, Plaintiff has  
20 suffered severe and serious injury to his person, all to Plaintiff's damage in a sum within he  
21 jurisdiction of this Court and not be shown according to proof.

22 58. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and  
23 continues to suffer substantial losses in income, earnings, and benefits and has been damaged in his  
24 capacity to earn his salary, and has lost and will continue to lose employment benefits.

25 59. The conduct of Defendants in discriminating against Plaintiff because of his disability  
26 subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights. Plaintiff is  
27 informed and believes, and thereon alleges, that the termination of employment, retaliatory conduct,  
28 efforts to discontinue medical benefits and other conduct by Defendants, and each of them, was

1 done with an intent to cause injury to Plaintiff. As a consequence of the aforesaid oppressive,  
2 malicious and despicable conduct, Plaintiff is entitled to an award of punitive damages in a sum to  
3 be shown according to proof.

4 **SEVENTH CAUSE OF ACTION**

5 **(Negligent Infliction of Emotional Distress)**

6 60. Plaintiff realleges paragraphs 1 through 59, inclusive, of this Complaint and incorporates  
7 them herein by reference.

8 61. Plaintiff is informed and believes, and thereon alleges, that the actions of Defendants, and  
9 each of them, were done with reckless disregard of the probability of causing Plaintiff emotional  
10 distress.

11 62. As a direct and proximate cause of the Defendants' conduct, Plaintiff has been subjected  
12 to severe emotional distress and will continue to suffer severe and permanent humiliation, mental  
13 pain and anguish, and will continue to live in a constant state of emotional tension and distress.

14 63. As a direct and proximate result of the Defendants', and each of their actions, Plaintiff has  
15 suffered severe and serious injury to his person, all to Plaintiff's damage in a sum within he  
16 jurisdiction of this Court and not be shown according to proof.

17 64. As a direct and proximate result of the Defendants' conduct, plaintiff has suffered and  
18 continues to suffer substantial losses in income, earnings, and benefits and has been damaged in his  
19 capacity to earn his salary, and has lost and will continue to lose employment benefits.

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

1 WHEREFORE, Plaintiff Randall J. Sloan prays for judgment against the Defendants, and each  
2 of them, as follows:

- 3 1. General damages in a sum according to proof;
- 4 2. Special damages including loss of income and benefits;
- 5 3. Punitive damages;
- 6 4. For interest provided by law, including but not limited to, Civil Code §3291;
- 7 5. For attorneys' fees in an amount to be shown according to proof;
- 8 6. Costs of suit and for each other and further relief as the Court deems just and  
9 proper.

10  
11  
12 Dated: December 11, 2007

FOTOUHI • EPPS • HILLGER • GILROY LLP

13  
14 By: 

Daniel P. Iannitelli  
Attorney for Plaintiff  
Randall J. Sloan

**EXHIBIT A**

STATE OF CALIFORNIA - STATE AND CONSUMER SERVICES AGENCY

ARNOLD SCHWARZENEGGER, Governor

**DEPARTMENT OF FAIR EMPLOYMENT & HOUSING**

1515 Clay Street, Suite 701, Oakland, CA 94612

(510) 622-2973 TTY (800) 700-2320 Fax (510) 622-2952

www.dfeh.ca.gov

**COPY**



December 12, 2006

RANDALL J. SLOAN  
563 Webster St. Apt F  
San Francisco, CA 94117

RE: E200607A0488-00-prsc  
SLOAN/PFIZER INC.

Dear RANDALL J. SLOAN:

**NOTICE OF CASE CLOSURE**

This letter informs that the above-referenced complaint that was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective December 8, 2006 because an immediate right-to-sue notice was requested. DFEH will take no further action on the complaint.

This letter is also the Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited to file a complaint within 30 days of receipt of this DFEH *Notice of Case Closure* or within 300 days of the alleged discriminatory act, whichever is earlier.

Notice of Case Closure  
Page Two

DFEH does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Sincerely,



Herbert Yarbrough  
District Administrator

cc: Case File

Sherry Amos  
Human Resources Generalist  
CT CORPORATION  
818 W. 7th Street  
Los Angeles, CA 90017

DFEH-200-43 (06/06)

# SUMMONS (CITACION JUDICIAL)

SUM-100

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

## NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

PFIZER, INC., a Delaware corporation; and DOES 1  
THROUGH 40, INCLUSIVE

## YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

RANDALL J. SLOAN

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es): San Francisco County Superior Court  
400 McAllister Street  
San Francisco, CA 94102

CASE NO. **08C-07-469930**  
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Daniel P. Iannitelli, FOTOUHI • EPPS • HILLGER • GILROY LLP  
160 Pine Street, Suite 710, San Francisco, CA 94111, (415) 362-9300

DATE:  
(Fecha)

DEC 11 2007

GORDON PARKER

Clerk, by  
(Secretario)

M. RAYD

Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

### NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):

- ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

☐ other (specify):

- ☐ by personal delivery on (date):

☐ CCP 416.60 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)



CM-010

|   |   |  |
|---|---|--|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Street address, City, State, and ZIP code):<br><b>Daniel P. Iannitelli, 203388 FOTOUHI • EPPS • HILLGER • GILROY LLP</b><br><b>160 Pine Street, Suite 710, San Francisco, CA 94111</b><br>TELEPHONE NO.: 415.362.9300 FAX NO.: 415.358.5521<br>ATTORNEY FOR (Name): <b>Randall J. Sloan</b> |   | <b>FILED</b><br>San Francisco County Superior Court<br><br>DEC 11 2007<br><br>GORDON PARK-LI, Clerk<br>BY: <i>[Signature]</i> Deputy Clerk |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO<br>STREET ADDRESS: 400 McAllister Street<br>MAILING ADDRESS:<br>CITY AND ZIP CODE: San Francisco, CA 94102<br>BRANCH NAME: Civic Center Courthouse  |   |  |
| CASE NAME: <b>RANDALL J. SLOAN v. PFIZER, INC.</b>  |   |  |
| <b>CIVIL CASE COVER SHEET</b><br><input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)  | Complex Case Designation<br><input type="checkbox"/> Counter <input type="checkbox"/> Joinder<br>Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402) |  |
|   |   | CASE NUMBER: <b>CGC-07-469930</b><br>JUDGE:<br>DEPT:   |

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

|   |  |  |
|---|--|--|
| <input type="checkbox"/> Auto Tort<br><input type="checkbox"/> Auto (22)<br><input type="checkbox"/> Uninsured motorist (46)<br><input type="checkbox"/> Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort<br><input type="checkbox"/> Asbestos (04)<br><input type="checkbox"/> Product liability (24)<br><input type="checkbox"/> Medical malpractice (45)<br><input type="checkbox"/> Other PI/PD/WD (23)<br><input type="checkbox"/> Non-PI/PD/WD (Other) Tort<br><input type="checkbox"/> Business tort/unfair business practice (07)<br><input type="checkbox"/> Civil rights (08)<br><input type="checkbox"/> Defamation (13)<br><input type="checkbox"/> Fraud (16)<br><input type="checkbox"/> Intellectual property (19)<br><input type="checkbox"/> Professional negligence (25)<br><input type="checkbox"/> Other non-PI/PD/WD tort (35)<br><input type="checkbox"/> Employment<br><input checked="" type="checkbox"/> Wrongful termination (36)<br><input type="checkbox"/> Other employment (15) | <input type="checkbox"/> Contract<br><input type="checkbox"/> Breach of contract/warranty (06)<br><input type="checkbox"/> Rule 3.740 collections (09)<br><input type="checkbox"/> Other collections (09)<br><input type="checkbox"/> Insurance coverage (18)<br><input type="checkbox"/> Other contract (37)<br><input type="checkbox"/> Real Property<br><input type="checkbox"/> Eminent domain/inverse condemnation (14)<br><input type="checkbox"/> Wrongful eviction (33)<br><input type="checkbox"/> Other real property (26)<br><input type="checkbox"/> Unlawful Detainer<br><input type="checkbox"/> Commercial (31)<br><input type="checkbox"/> Residential (32)<br><input type="checkbox"/> Drugs (38)<br><input type="checkbox"/> Judicial Review<br><input type="checkbox"/> Asset forfeiture (05)<br><input type="checkbox"/> Petition re: arbitration award (11)<br><input type="checkbox"/> Writ of mandate (02)<br><input type="checkbox"/> Other judicial review (39) | <input type="checkbox"/> Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)<br><input type="checkbox"/> Antitrust/Trade regulation (03)<br><input type="checkbox"/> Construction defect (10)<br><input type="checkbox"/> Mass tort (40)<br><input type="checkbox"/> Securities litigation (28)<br><input type="checkbox"/> Environmental/Toxic tort (30)<br><input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)<br><input type="checkbox"/> Enforcement of Judgment<br><input type="checkbox"/> Enforcement of judgment (20)<br><input type="checkbox"/> Miscellaneous Civil Complaint<br><input type="checkbox"/> RICO (27)<br><input type="checkbox"/> Other complaint (not specified above) (42)<br><input type="checkbox"/> Miscellaneous Civil Petition<br><input type="checkbox"/> Partnership and corporate governance (21)<br><input type="checkbox"/> Other petition (not specified above) (43) |
|---|--|--|

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

|  |  |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties<br>b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve<br>c. <input type="checkbox"/> Substantial amount of documentary evidence | d. <input type="checkbox"/> Large number of witnesses<br>e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court<br>f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|--|--|

3. Remedies sought (check all that apply): a. ☒ monetary     b. ☐ nonmonetary; declaratory or injunctive relief     c. ☐ punitive

4. Number of causes of action (specify): 7

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: December 11, 2007

Daniel P. Iannitelli

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

## NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

SUMMONS ISSUED

**FILED**  
San Francisco County Superior Court

DEC 11 2007

GORDON PARK-LI, Clerk

BY: MDep Deputy Clerk

1 **Daniel P. Iannitelli - 203388**  
2 **Bryan L. Saalfeld - 243331**  
3 FOTOUHI • EPPS • HILLGER • GILROY LLP  
4 160 Pine Street, Suite 710  
5 San Francisco, CA 94111  
6 Tel: 415.362.9300  
7 Fax: 415.358.5521

8 Attorneys for Plaintiffs  
9 RANDALL J. SLOAN

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SAN FRANCISCO - UNLIMITED JURISDICTION

12 RANDALL J. SLOAN, an individual,

13 Plaintiff,

14 vs.

15 PFIZER, INC., a Delaware corporation; and  
16 DOES 1 through 40, inclusive,

17 Defendants.

Case No. **CGC-07-469930**

**COMPLAINT FOR DAMAGES**

**CASE MANAGEMENT CONFERENCE SET**

**MAY 09 2008 9AM**

**DEPARTMENT 212**

18 COMES NOW Plaintiff and files this Complaint against Defendants on behalf of himself, and  
19 in support thereof alleges the following:

**PARTIES**

20 1. Plaintiff RANDALL SLOAN (hereinafter referred to as "Plaintiff") is an individual and a  
21 resident of the State of California.

22 2. Plaintiff is informed, and thereon alleges, that defendant PFIZER, INC., is a Delaware  
23 corporation, and is authorized to transact business in the State of California.

24 3. Plaintiff does not know the true names and capacities of defendants designated as

25 Does 1 through 40 inclusive, whether individual, corporate, associate or otherwise, and therefore  
26 sues said defendants by such fictitious names pursuant to the California Code of Civil Procedure.

27 Plaintiff is informed and believes and thereon alleges that each of the fictitiously named defendants  
28 is responsible in some manner for the occurrences herein alleged and that Plaintiff's injuries as  
herein alleged were proximately caused by their wrongful conduct. Plaintiff will amend its Complaint

1 when the true names and capacities of said defendants are revealed or become known.

2 4. Plaintiff is informed and believes and thereon allege that at all times mentioned in  
3 this Complaint, each of the defendants, whether specifically named or designated as a Doe, was the  
4 agent, servant, employee or officer of the other, and all acts alleged to have been committed by one  
5 of them was committed by and on behalf of every other and in doing the acts herein alleged, was  
6 acting within the course and scope of said agency, employment and service with the advance  
7 knowledge, consent and ratification of the remaining defendants.

8 5. Venue is appropriate because defendant PFIZER, INC., is authorized to transact business in  
9 the State of California and transacts business in the City and County of San Francisco. Plaintiff is a  
10 resident of State of California, City and County of San Francisco.

11 **STATEMENT OF FACTS**

12 6. From on or about October 1, 2001, to on or about January 8, 2007, Plaintiff was employed  
13 by Defendant PFIZER, INC, as an Associate, in the Clinical Developmental Group.

14 7. At times herein mentioned, Plaintiff was a individual protected, on the basis of his sexual  
15 orientation, gender, mental disability and physical disability, under Cal. Govt. Code §12940(a).

16 8. Since the inception of his employment with Defendants, Plaintiff was openly Gay and this fact  
17 was understood by Plaintiff's employer, supervisors and co-workers. Throughout his employment,  
18 Plaintiff worked tirelessly to perform beyond expectations and to develop professionally within the  
19 company. In addition to his achievements at his position, Plaintiff actively sought mentoring and  
20 training opportunities as outlined in defendant PFIZER, INC.'s policies. Plaintiff also sought  
21 promotions for which he was qualified.

22 9. Despite Plaintiff's excellence in the performance of his duties and efforts to grow  
23 professionally, Defendants, on the basis of his sexual orientation and gender, refused to approve  
24 Plaintiff's efforts to seek mentoring through its Open Door Policy and to seek guidance in his  
25 development. Plaintiff was also denied promotions on the basis of his sexual orientation and gender.  
26 Within Plaintiff's team, he was the only male and only non-heterosexual. Plaintiff's heterosexual  
27 female co-workers received mentoring, training opportunities, higher performance reviews, higher  
28 compensation and better treatment as employees. Plaintiff complained about the unfair and

1 discriminatory conduct to his immediate supervisor. Defendants' conduct in refusing to assist Plaintiff  
2 in his professional development, per PFIZER, INC.'s policies, and refusal to promote Plaintiff, was on  
3 the basis of his sexual orientation and gender, and for opposing Defendants' discriminatory actions.

4 10. In or around November 2004, Plaintiff began making formal complaints to the Human  
5 Resources department about the discrimination and retaliation he was enduring. Plaintiff also  
6 continued to address his concerns to, and demand from, his immediate supervisor that he be treated  
7 fairly under the law, as well as PFIZER, INC.'s anti-discrimination and retaliation policies. Plaintiff's  
8 complaints to Human Resources were not investigated and no action was taken to prevent further  
9 discrimination.

10 11. In or around May 2005, Plaintiff was diagnosed with human immunodeficiency virus (HIV).  
11 Shortly thereafter, Plaintiff was also diagnosed with mental disabilities.

12 12. In or around July 2005, pursuant to Plaintiff's physicians recommendations and orders,  
13 Plaintiff requested from Defendants that he be provided an accommodation of being able to work  
14 from home (telecommute), or that some other reasonable accommodation be made. Defendants  
15 denied Plaintiff's request despite the fact that one of his co-workers, a heterosexual female, was  
16 permitted to telecommute from another state for six (6) months simply to facilitate the preparations of  
17 her wedding.

18 13. Plaintiff made repeated requests for a reasonable accommodation which were denied by  
19 Defendants. Instead, PFIZER, INC. insisted that Plaintiff apply for Short Term Disability (STD) under its  
20 STD Plan, which Plaintiff reluctantly agreed to do. Acting unreasonable in administering his  
21 application, PFIZER, INC.'s conduct resulted in needless delay in obtaining benefits which were  
22 provided only after Plaintiff's extensive efforts.

23 14. Without adequate warning and a reasonable basis, Defendants cancelled Plaintiff's STD  
24 benefits and ordered him to return to work on December 12, 2006. Defendants did so in violation of  
25 its own policies and applicable law. This unexpected demand occurred a few days after Plaintiff  
26 inquired about PFIZER, INC.'s policies regarding gender reassignment and further communications  
27 with human resources regarding prior complaints of, and ongoing, discrimination and retaliation.

28 //

1 15. On December 12, 2006, Plaintiff returned to work from his interrupted disability leave,  
2 performing his duties by telecommuting.

3 16. On or about February 1, 2006, due to his physical disabilities, Plaintiff was  
4 again placed on STD and was on medical leave until August 1, 2006. As a result of continued  
5 disabilities, plaintiff requested further extension of his STD as permitted by PFIZER, INC.'s policies, as  
6 well as placement in other positions within the company for which Plaintiff was qualified. PFIZER  
7 refused such accommodations and terminated Plaintiff.

8 **FIRST CAUSE OF ACTION**

9 **(Physical and Mental Disability Discrimination)**

10 17. Plaintiff realleges paragraphs 1 through 16, inclusive, of this Complaint and incorporates  
11 them herein by reference.

12 18. Plaintiff suffers from physical and mental disabilities, as diagnosed by medical physicians  
13 and acknowledged by Defendants, and is therefore a member of the class of persons protected from  
14 mental and physical disability discrimination under California Government Code section 12940 et  
15 seq.

16 19. Defendants regularly employ five or more persons and therefore are employers subject to  
17 regulation by California Government Code §12940.

18 20. Defendants refused to make reasonable accommodations for Plaintiff's known mental and  
19 physical disabilities by terminating Plaintiff because, in part, he was placed on medical-mental  
20 disability leave by his physician. Despite Plaintiff's repeated requests, Defendants failed to engage in  
21 an interactive process to find a reasonable accommodation.

22 21. Defendants unlawfully subjected Plaintiff to adverse employment actions by, among other  
23 things, harassing Plaintiff, retaliating against Plaintiff, treating Plaintiff differently than other similarly  
24 situated employees, because of his disability.

25 22. Plaintiff is informed and believes, and thereon alleges, that Plaintiff's employment was  
26 terminated by Defendants because of his physical and mental disability, in violation of California  
27 Government Code §12940 et seq.

28 23. Within one-year from the date of the most recent act of discrimination, Plaintiff filed a

1 charge of physical and mental disability discrimination, and other violations including gender and  
2 sexual orientation discrimination, with the California Department of Fair Employment and Housing.  
3 On or about December 12, 2006, Plaintiff received a right to sue notice from the California  
4 Department of Fair Employment and Housing and subsequently amended. A true and correct copy  
5 of the DFEH Right to Sue letter is attached hereto as Exhibit A.

6 24. As a direct and proximate result of the Defendants' conduct, Plaintiff has suffered and  
7 continues to suffer substantial losses in income, earnings and benefits and has been damaged in his  
8 capacity to earn his salary, and has lost and will continue to lose employment benefits.

9 27. As a direct and proximate result of the Defendants' conduct, Plaintiff has suffered and  
10 continues to suffer severe and serious injury to his person, all to Plaintiff's damage in a sum within  
11 the jurisdiction of this Court and to be shown according to proof.

12 26. The conduct of Defendants in discriminating against Plaintiff and terminating him because  
13 of his disabilities subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's  
14 rights. Plaintiff is informed and believes, and thereon alleges, that his termination by Defendants,  
15 and each of them, was done with an intent to cause injury to Plaintiff. As a consequence of the  
16 aforesaid oppressive, malicious and despicable conduct, Plaintiff is entitled to an award of punitive  
17 damages in a sum to be shown according to proof.

## 18 **SECOND CAUSE OF ACTION**

### 19 **(Gender and Sexual Orientation Discrimination)**

20 27. Plaintiff realleges paragraphs 1 through 26, inclusive, of this Complaint and incorporates  
21 them herein by reference.

22 28. Plaintiff is a Gay male and is therefore a member of the classes of persons protected from  
23 gender, sexual orientation and gender assignment discrimination under California Government  
24 Code section 12940 et seq.

25 29. Defendants discriminated against Plaintiff, on the basis of his sexual orientation and gender,  
26 by failing to provide the same employment benefits offered to other similarly situated, straight  
27 females, including not receiving mentoring, training opportunities, higher performance reviews,  
28 higher compensation, exclusion from proximity to management, promotions and fair treatment.

30. Defendants discriminated against Plaintiff, on the basis of his sexual orientation and gender, by not offering him the same opportunities as other co-workers and by refusing to reassign plaintiff to another position within the company and by terminating him.

31. As a direct and proximate result of the Defendants' conduct, Plaintiff has suffered and continues to suffer substantial losses in income, earnings and benefits and has been damaged in his capacity to earn his salary, and has lost and will continue to lose employment benefits.

32. As a direct and proximate result of the Defendants' conduct, Plaintiff has suffered and continues to suffer severe and serious injury to his person, all to Plaintiff's damage in a sum within the jurisdiction of this Court and to be shown according to proof.

33. The conduct of Defendants in discriminating against Plaintiff and terminating him because of his disability subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights. Plaintiff is informed and believes, and thereon alleges, that his termination by Defendants, and each of them, was done with an intent to cause injury to Plaintiff. As a consequence of the aforesaid oppressive, malicious and despicable conduct, Plaintiff is entitled to an award of punitive damages in a sum to be shown according to proof.

### **THIRD CAUSE OF ACTION**

#### **(Wrongful Termination in Violation of Public Policy)**

34. Plaintiff realleges paragraphs 1 through 33, inclusive, of this Complaint and incorporates them herein by reference.

35. Plaintiff is informed and believes, and thereon alleges, that Plaintiff's employment was terminated by Defendants because of, among other things, his physical and mental disabilities, in violation of California Government Code §12940 et seq.

36. Plaintiff is informed and believes, and thereon alleges, Plaintiff's employment was also terminated by Defendants because of his sexual orientation, gender and exploration of gender reassignment in violation of California Government Code §12940 et seq.

37. As a direct and proximate result of the Defendants' conduct, Plaintiff has suffered and continues to suffer substantial losses in income, earnings and benefits and has been damaged in his capacity to earn his salary, and has lost and will continue to lose employment benefits.

1 38. As a direct and proximate result of the Defendants' conduct, Plaintiff has suffered and  
2 continues to suffer severe and serious injury to his person, all to Plaintiff's damage in a sum within  
3 the jurisdiction of this Court and to be shown according to proof.

4 39. As a direct and proximate result of the misconduct and unlawfulness of Defendants, and  
5 each of them, and the resulting termination of Plaintiff's employment, Plaintiff has suffered harm  
6 including, but not limited to, humiliation, embarrassment, and mental anguish, all to Plaintiff's  
7 damage to be shown according to proof.

8 41. The conduct of Defendants in discriminating against Plaintiff, terminating him because  
9 of his disability, and to deny him benefits, subjected Plaintiff to cruel and unjust hardship in  
10 conscious disregard of Plaintiff's rights. Plaintiff is informed and believes, and thereon alleges, that  
11 his termination by Defendants, and each of them, was done with an intent to cause injury to Plaintiff.  
12 As a consequence of the aforesaid oppressive, malicious and despicable conduct, Plaintiff is entitled  
13 to an award of punitive damages in a sum to be shown according to proof.

14  
15 **FOURTH CAUSE OF ACTION**

16 **(Retaliation)**

17 42. Plaintiff realleges paragraphs 1 through 41, inclusive, of this Complaint and incorporates  
18 them herein by reference.

19 43. Plaintiff is informed and believes, and thereon alleges, that the adverse employment  
20 actions taken against him by Defendants as set forth herein occurred in retaliation for being on  
21 disability leave, asserting his rights as Gay individual and a disabled individual, as well as Plaintiff's  
22 complaints of unlawful discriminatory treatment, harassment and adverse treatment in his  
23 employment with Defendants. Such actions are unlawful, discriminatory and retaliatory in violation  
24 of Government Code section 12940 et seq. and have resulted in damages to Plaintiff.

25 44. As a direct and proximate result of the Defendants' conduct, Plaintiff has suffered and  
26 continues to suffer substantial losses in income, earnings and benefits and has been damaged in his  
27 capacity to earn his salary, and has lost and will continue to lose employment benefits.

28 45. As a direct and proximate result of the Defendants' conduct, Plaintiff has suffered and

1 continues to suffer severe and serious injury to his person, all to Plaintiff's damage in a sum within  
2 the jurisdiction of this Court and to be shown according to proof.

3 46. As a direct and proximate result of the misconduct and unlawfulness of Defendants, and  
4 each of them, and the resulting termination of Plaintiff's employment, Plaintiff has suffered harm  
5 including, but not limited to, humiliation, embarrassment, and mental anguish, all to Plaintiff's  
6 damage to be shown according to proof.

7 47. The conduct of Defendants in discriminating against Plaintiff and retaliating against him  
8 because of his disability subjected Plaintiff to cruel and unjust hardship in conscious disregard of  
9 Plaintiff's rights. Plaintiff is informed and believes, and thereon alleges, that his termination by  
10 Defendants, and each of them, was done with an intent to cause injury to Plaintiff. As a  
11 consequence of the aforesaid oppressive, malicious and despicable conduct, Plaintiff is entitled to  
12 an award of punitive damages in a sum to be shown according to proof.

13 **FIFTH CAUSE OF ACTION**

14 **(Breach of the Covenant of Good Faith and Fair Dealing)**

15 48. Plaintiff realleges paragraphs 1 through 47, inclusive, of this Complaint and incorporates  
16 them herein by reference.

17 49. The employment agreement referred to above contained an implied covenant of good faith  
18 and fair dealing, which obligated Defendants to perform the terms and conditions of the agreement  
19 fairly and in good faith and refrain from doing any act that would prevent or impede Plaintiff from  
20 performing any and all of the conditions of the contract that he agreed to perform, or any act that  
21 would deprive Plaintiff of the benefits of the contract.

22 50. Plaintiff performed all the duties and conditions of the employment agreement.

23 51. Defendants knew that Plaintiff had fulfilled his duties and conditions under the agreement.

24 52. Defendants breached the implied covenant of good faith and fair dealing under the  
25 employment agreement by causing Plaintiff's termination intentionally, in bad faith and for reasons  
26 extraneous to the agreement. Plaintiff is informed and believes, and thereon alleges, that  
27 Defendants terminated Plaintiff without good, just or legitimate cause. Plaintiff is informed and  
28 believes and thereon alleges that Defendants terminated him because, among other things, of his

1 gender, sexual orientation, disabilities and complaints regarding adverse employment actions.

2 53. As a proximate result of Defendants' breach of the implied covenant of good faith and fair  
3 dealing, Plaintiff has suffered, and continues to suffer, losses in earnings and other employment  
4 benefits, and consequential economic damages to his damage in an amount to be shown according  
5 to proof.

6 **SIXTH CAUSE OF ACTION**

7 **(Intentional Infliction of Emotional Distress)**

8 54. Plaintiff realleges paragraphs 1 through 53, inclusive, of this Complaint and incorporates  
9 them herein by reference.

10 55. Plaintiff is informed and believes, and thereon alleges, that the actions of Defendants, and  
11 each of them, discriminated against Plaintiff, harassed Plaintiff, retaliated against Plaintiff, and  
12 engaged in other misconduct against Plaintiff because of his gender, sexual orientation, disability,  
13 and causing Plaintiff's employment to be terminated in contravention of public policy, as aforesaid,  
14 was intentional, extreme, outrageous and done with the intent to cause emotional distress or with  
15 reckless disregard of the probability of causing Plaintiff such emotional distress.

16 56. As a direct and proximate cause of the Defendants' conduct, Plaintiff has been subjected  
17 to severe emotional distress and will continue to suffer severe and permanent humiliation, mental  
18 pain and anguish, and will continue to live in a constant state of emotional tension and distress.

19 57. As a direct and proximate result of Defendants, and each of their actions, Plaintiff has  
20 suffered severe and serious injury to his person, all to Plaintiff's damage in a sum within he  
21 jurisdiction of this Court and not be shown according to proof.

22 58. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and  
23 continues to suffer substantial losses in income, earnings, and benefits and has been damaged in his  
24 capacity to earn his salary, and has lost and will continue to lose employment benefits.

25 59. The conduct of Defendants in discriminating against Plaintiff because of his disability  
26 subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights. Plaintiff is  
27 informed and believes, and thereon alleges, that the termination of employment, retaliatory conduct,  
28 efforts to discontinue medical benefits and other conduct by Defendants, and each of them, was

1 done with an intent to cause injury to Plaintiff. As a consequence of the aforesaid oppressive,  
2 malicious and despicable conduct, Plaintiff is entitled to an award of punitive damages in a sum to  
3 be shown according to proof.

4 **SEVENTH CAUSE OF ACTION**

5 **(Negligent Infliction of Emotional Distress)**

6 60. Plaintiff realleges paragraphs 1 through 59, inclusive, of this Complaint and incorporates  
7 them herein by reference.

8 61. Plaintiff is informed and believes, and thereon alleges, that the actions of Defendants, and  
9 each of them, were done with reckless disregard of the probability of causing Plaintiff emotional  
10 distress.

11 62. As a direct and proximate cause of the Defendants' conduct, Plaintiff has been subjected  
12 to severe emotional distress and will continue to suffer severe and permanent humiliation, mental  
13 pain and anguish, and will continue to live in a constant state of emotional tension and distress.

14 63. As a direct and proximate result of the Defendants', and each of their actions, Plaintiff has  
15 suffered severe and serious injury to his person, all to Plaintiff's damage in a sum within the  
16 jurisdiction of this Court and not be shown according to proof.

17 64. As a direct and proximate result of the Defendants' conduct, plaintiff has suffered and  
18 continues to suffer substantial losses in income, earnings, and benefits and has been damaged in his  
19 capacity to earn his salary, and has lost and will continue to lose employment benefits.

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

1 WHEREFORE, Plaintiff Randall J. Sloan prays for judgment against the Defendants, and each  
2 of them, as follows:

- 3 1. General damages in a sum according to proof;
- 4 2. Special damages including loss of income and benefits;
- 5 3. Punitive damages;
- 6 4. For interest provided by law, including but not limited to, Civil Code §3291;
- 7 5. For attorneys' fees in an amount to be shown according to proof;
- 8 6. Costs of suit and for each other and further relief as the Court deems just and  
9 proper.

10  
11  
12 Dated: December 11, 2007

FOTOUHI • EPPS • HILLGER • GILROY LLP

13  
14  
15 By: 

Daniel P. Iannitelli  
Attorney for Plaintiff  
Randall J. Sloan

**EXHIBIT A**

---

STATE OF CALIFORNIA - STATE AND CONSUMER SERVICES

ARNOLD SCHWARZENEGGER, Governor

**DEPARTMENT OF FAIR EMPLOYMENT & HOUSING**

1515 Clay Street, Suite 701, Oakland, CA 94612

(510) 622-2973 TTY (800) 700-2320 Fax (510) 622-2952

www.dfeh.ca.gov

**COPY**

December 12, 2006

RANDALL J. SLOAN  
563 Webster St. Apt F  
San Francisco, CA 94117

RE: E200607A0488-00-prsc  
SLOAN/PFIZER INC.

Dear RANDALL J. SLOAN:

**NOTICE OF CASE CLOSURE**

This letter informs that the above-referenced complaint that was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective December 8, 2006 because an immediate right-to-sue notice was requested. DFEH will take no further action on the complaint.

This letter is also the Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited to file a complaint within 30 days of receipt of this DFEH *Notice of Case Closure* or within 300 days of the alleged discriminatory act, whichever is earlier.

Notice of Case Closure  
Page Two

DFEH does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Sincerely,



Herbert Yarbrough  
District Administrator

cc: Case File

Sherry Amos  
Human Resources Generalist  
CT CORPORATION  
818 W. 7th Street  
Los Angeles, CA 90017

CASE NUMBER: CGC-07-469930 RANDALL J SLOAN VS. PFIZER, INC., A DELAWARE CORP(C

**NOTICE TO PLAINTIFF**

A Case Management Conference is set for:

**DATE: MAY-09-2008**

**TIME: 9:00AM**

**PLACE: Department 212  
400 McAllister Street  
San Francisco, CA 94102-3680**

All parties must appear and comply with Local Rule 3.

CRC 3.725 requires the filing and service of a case management statement form CM-110 no later than 15 days before the case management conference.

However, it would facilitate the issuance of a case management order **without an appearance** at the case management conference if the case management statement is filed, served and lodged in Department 212 twenty-five (25) days before the case management conference.

Plaintiff must serve a copy of this notice upon each party to this action with the summons and complaint. Proof of service subsequently filed with this court shall so state.

**ALTERNATIVE DISPUTE RESOLUTION POLICY REQUIREMENTS**

**IT IS THE POLICY OF THE SUPERIOR COURT THAT EVERY CIVIL CASE PARTICIPATE IN EITHER MEDIATION, JUDICIAL OR NON-JUDICIAL ARBITRATION, THE EARLY SETTLEMENT PROGRAM OR SOME SUITABLE FORM OF ALTERNATIVE DISPUTE RESOLUTION PRIOR TO A MANDATORY SETTLEMENT CONFERENCE OR TRIAL.  
(SEE LOCAL RULE 4)**

Plaintiff must serve a copy of the Alternative Dispute Resolution Information Package on each defendant along with the complaint. All counsel must discuss ADR with clients and opposing counsel and provide clients with a copy of the Alternative Dispute Resolution Information Package prior to filing the Case Management Statement.

**[DEFENDANTS: Attending the Case Management Conference does not take the place of filing a written response to the complaint. You must file a written response with the court within the time limit required by law. See Summons.]**

Superior Court Alternative Dispute Resolution Coordinator  
400 McAllister Street, Room 103  
San Francisco, CA 94102  
(415) 551-3876

See Local Rules 3.6, 6.0 C and 10 D re stipulation to commissioners acting as temporary judges

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

400 MCALLISTER STREET, SAN FRANCISCO, CA 94102

RANDALL J SLOAN

**Pretrial Department 212**

PLAINTIFF (S)

VS.

**CGC-07-469930**

PFIZER, INC., A DELAWARE CORPORATION et  
al

**ORDER TO SHOW CAUSE RE:  
PROOF OF SERVICE**

DEFENDANT (S)

TO: PLAINTIFF'S ATTORNEY OR PLAINTIFF IN PRO PER

You are hereby ordered to appear in Department 212, 400 McAllister St., on APR-01-2008, at 9:00AM pursuant to San Francisco Uniform Local Rules 3.0C1 and CRC 3.110(b) to show cause why sanctions should not be imposed for failure to serve defendant(s) and file proof(s) of service within 60 days of the filing of the complaint.

You must file proof of service no later than one week before your appearance date.

You may call (415) 551-4000 after 12:00 Noon the day before the hearing to determine whether your compliance has taken the order to show cause off calendar

DATED: FEB-27-2008

ARLENE T. BORICK

JUDGE/COMMISSIONER

**Certificate of Mailing**

I, the undersigned, certify that I am an employee of the Superior Court of California, County of San Francisco and not a party to the above-entitled cause and that on FEB-27-2008 I served the foregoing ORDER TO SHOW CAUSE RE: PROOF OF SERVICE on each counsel of record or party appearing in propria persona by causing a copy thereof to be enclosed in a postage paid sealed envelope and deposited in the United States Postal Service mail box located at 400 McAllister Street, San Francisco CA 94102-4514 pursuant to standard court practice.

Dated : FEB-27-2008

By: DAVID YUEN

DANIEL P. IANNITELLI (203388)  
FOTOUHI, EPPS, HILLGER, GILROY, LLP  
160 PINE STREET, SUITE 710  
SAN FRANCISCO, CA 94111

DANIEL P. IANNITELLI (203388)  
FOTOUHI, EPPS, HILLGER, GILROY, LLP  
160 PINE STREET, SUITE 710  
SAN FRANCISCO, CA 94111

CGC-07-469930

RANDALL J SLOAN VS. PFIZER, INC., A DELAWARE CORPORATION et al

**Mini-Minutes - Apr-01-2008 9:22 am**

No appearance. Plaintiff's counsel is sanctioned \$200.00, for failure to appear. The OSC is ordered off calendar. Proceedings reported by: Scott Hughes, CSR#12365. (212)

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

400 MCALLISTER STREET, SAN FRANCISCO, CA 94102

RANDALL J SLOAN

PLAINTIFF (S)

VS.

PFIZER, INC., A DELAWARE CORPORATION et  
al

DEFENDANT (S)

**Pretrial Department 212  
Case Management Order**

**NO. CGC-07-469930**

**Sanction Order**

TO: DANIEL P. IANNITELLI, ESQ.,

You are hereby ordered to pay sanctions in the amount of \$200.00 for failure to: APPEAR AT THE ORDER  
TO SHOW CAUSE HEARING ON: APR-01-2008.

This amount must be paid to the San Francisco Superior Court on or before Apr-16-2008, in Room 103 at  
400 MCALLISTER STREET, SAN FRANCISCO, CA 94102.

DATED: APR-01-2008

ARLENE T. BORICK

JUDGE/COMMISSIONER

**CERTIFICATE OF SERVICE BY MAIL**

I, the undersigned, certify that I am an employee of the Superior Court of California, County of San Francisco and not a party to the above-entitled cause and that on APR-01-2008 I served the foregoing Sanction Order on each counsel of record or party appearing in propria persona by causing a copy thereof to be enclosed in a postage paid sealed envelope and deposited in the United States Postal Service mail box located at 400 McAllister Street, San Francisco CA 94102-4514 pursuant to standard court practice.

Dated : APR-01-2008

By: YOLANDA MAZARIEGOS

DANIEL P. IANNITELLI (203388)  
FOTOUHI, EPPS, HILLGER, GILROY, LLP  
160 PINE STREET, SUITE 710  
SAN FRANCISCO, CA 94111

ORIGINAL

Mitchell F. Boomer (State Bar No. 121441)  
Janine R. Hudson (State Bar No. 206671)  
JACKSON LEWIS LLP  
199 Fremont Street, 10th Floor  
San Francisco, California 94105  
Telephone: (415) 394-9400  
Facsimile: (415) 394-9401

Attorneys for Defendant  
PFIZER, INC.

**FILED**  
Superior Court of California  
County of San Francisco  
APR 01 2008  
GORDON PATTERSON  
BY: *[Signature]*

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

RANDALL J. SLOAN, an individual,

Plaintiff,

vs.

PFIZER, INC., a Delaware corporation; and  
DOES 1 through 40, inclusive,

Defendants.

Case No. CGC-07-469930

**DEFENDANT PFIZER, INC.'S  
ANSWER TO UNVERIFIED  
COMPLAINT**

Complaint Filed: December 11, 2007

Defendant PFIZER, INC. ("Defendant"), for itself and none other, answers the unverified complaint of Plaintiff RANDALL J. SLOAN ("Plaintiff") as follows:

**GENERAL DENIAL**

Pursuant to Code of Civil Procedure Section 431.30(d), Defendant denies, generally and specifically, each and every allegation contained in Plaintiffs' unverified complaint.

**AFFIRMATIVE DEFENSES**

By way of affirmative defense to the allegations of the complaint herein, Defendant alleges as follows:

///

///

///

1 **FIRST AFFIRMATIVE DEFENSE**

2 Plaintiff's complaint as a whole, and each purported cause of action alleged therein, fails  
3 to state facts sufficient to constitute a cause of action against Defendant upon which relief may be  
4 granted.

5 **SECOND AFFIRMATIVE DEFENSE**

6 Plaintiff's first, second and fourth causes of action are barred in whole or in part by the  
7 Plaintiff's failure to properly file a timely charge with the California Department of Fair  
8 Employment and Housing and to properly obtain a right to sue letter. Cal. Govt. Code §§ 12960  
9 and 12965.

10 **THIRD AFFIRMATIVE DEFENSE**

11 At all times material to Plaintiff's Complaint, Defendant maintains and enforces a policy  
12 prohibiting and seeking to prevent discrimination in the workplace. Defendant's policies include  
13 statements that encourage employees to come forward with complaints of discrimination. Known  
14 violators of Defendant's policies prohibiting discrimination and retaliation, including supervisory  
15 personnel, subject themselves to remedial and disciplinary measures, including termination of  
16 employment. Plaintiff's complaint, and each purported cause of action alleged therein, is barred  
17 in whole or in part because Defendant exercised reasonable care to prevent and correct  
18 discriminatory or retaliatory behavior based on disability, gender, and sexual orientation, and  
19 Plaintiff unreasonably failed to utilize the preventive or corrective remedies provided by  
20 Defendant to prevent and to otherwise avoid such harm.

21 **FOURTH AFFIRMATIVE DEFENSE**

22 Plaintiff's first, second, third and fourth causes action are barred in whole or in part  
23 because Defendant's acts were done for legitimate, non-discriminatory and non-retaliatory  
24 business reasons.

25 **FIFTH AFFIRMATIVE DEFENSE**

26 Plaintiff's first, second, and fourth causes of action are barred in whole or in part because,  
27 assuming *arguendo* Defendant knew or should have known Plaintiff was subjected to unlawful  
28 discrimination or retaliation, Defendant took immediate and appropriate corrective action.

**SIXTH AFFIRMATIVE DEFENSE**

Plaintiff's first cause of action for disability discrimination is barred in whole or in part because Defendant satisfied and/or discharged its duty to engage Plaintiff in good faith interactive discussions to determine the availability of effective reasonable accommodations, whereas Plaintiff failed to do so.

**SEVENTH AFFIRMATIVE DEFENSE**

Plaintiff's first cause of action for disability discrimination is barred in that the desired accommodation sought by the plaintiff would impose an undue hardship on the employer's business operations, pursuant to California Government Code sections 12940(a)(1) and 12940(m).

**EIGHTH AFFIRMATIVE DEFENSE**

Plaintiff's Complaint, and each purported cause of action alleged therein, is barred by the doctrine of after-acquired evidence, or the doctrine of after-acquired evidence limits and reduces Plaintiff's alleged damages.

**NINTH AFFIRMATIVE DEFENSE**

Plaintiff's fifth cause of action for breach of implied covenant of good faith and fair dealing is barred because Plaintiff's employment was terminated for good cause.

**TENTH AFFIRMATIVE DEFENSE**

Plaintiff's third and fifth causes of action for alleged wrongful termination and breach of the implied covenant of good faith and fair dealing are barred by California Labor Code section 2922, in that Plaintiff's employment with Defendant was for no specified term and thus subject to termination at the will of either party without notice or cause.

**ELEVENTH AFFIRMATIVE DEFENSE**

Plaintiff's fifth cause of action is barred by California Code of Civil Procedure § 339 to the extent Plaintiff seeks relief for any purported claims for breach of implied terms of an oral contract or implied covenant which occurred more than two years before the filing of the Complaint.

**TWELFTH AFFIRMATIVE DEFENSE**

Plaintiff's Complaint, and each cause of action therein, is barred in whole or in part by the

1 doctrine of unclean hands.

2 **THIRTEENTH AFFIRMATIVE DEFENSE**

3 Plaintiff's Complaint, and each cause of action therein, is barred in whole or in part by  
4 Plaintiff's own acts and omissions, which constitute estoppel both in law and fact.

5 **FOURTEENTH AFFIRMATIVE DEFENSE**

6 To the extent Plaintiff claims any acts of Defendant or its employees caused him alleged  
7 emotional distress, the exclusive remedy for Plaintiff's alleged emotional distress and other  
8 injuries, if any, lies under the California Workers' Compensation Act, California Labor Code §§  
9 3600 *et seq.*

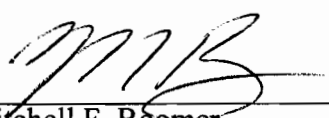
10 **FIFTEENTH AFFIRMATIVE DEFENSE**

11 Plaintiff is barred in whole or in part from recovering any damages, or any recovery must  
12 be reduced, by virtue of Plaintiff's failure to exercise reasonable diligence to mitigate his alleged  
13 damages. Further, Plaintiff's damages, if any, are to be reduced by all income received by  
14 Plaintiff after his separation from employment by Defendant. Such income shall include all  
15 earned income, state disability payments, social security payments, private disability insurance,  
16 Medi-Cal and Medicare benefits, and any other monies paid to Plaintiff in compensation for  
17 services rendered under any federal, state or local program or from any private insurance.

18  
19 Dated: April 1, 2008

JACKSON LEWIS LLP

20  
21 By:

  
\_\_\_\_\_  
Mitchell F. Boomer  
Janine R. Hudson  
Attorneys for Defendant  
PFIZER, INC.

22  
23  
24  
25  
26 H:\P\pfizer, Inc (54333)\Sloan, Randal J (118824)\Pleadings\20080401 jrh Answer to Unverified Complaint (final).doc April 1, 2008  
27  
28

**PROOF OF SERVICE**

I, Belinda Vega, declare that I am employed with the law firm of Jackson Lewis LLP, whose address is 199 Fremont Street, 10th Floor, San Francisco, California 94105; I am over the age of eighteen (18) years and am not a party to this action.

On April 1, 2008, I served the attached **DEFENDANT PFIZER, INC.'S ANSWER TO UNVERIFIED COMPLAINT** in this action by placing a true and correct copy thereof, enclosed in a sealed envelope addressed as follows:

|                                   |                         |
|-----------------------------------|-------------------------|
| Daniel P. Iannitelli (SBN 203388) | Attorneys for Plaintiff |
| Bryan L.P. Saalfeld (SBN 243331)  |                         |
| Fotouhi Epps Hillger Gilroy LLP   | RANDALL J. SLOAN        |
| 160 Pine St., Ste. 710            |                         |
| San Francisco, CA 94111           |                         |
| Tel: (415) 362-9300               |                         |
| Fax: (415) 358-5521               |                         |

☒ **BY MAIL:** United States Postal Service by placing sealed envelopes with the postage thereon fully prepaid, placed for collection and mailing on this date, following ordinary business practices, in the United States mail at San Francisco, California. ☐ ***Courtesy copy by fax.***

☐ **BY HAND DELIVERY:** I caused such envelope to be delivered by hand to the above address (via Western Messenger).

☐ **BY OVERNIGHT DELIVERY:** I caused such envelope to be delivered to the above address within 24 hours by overnight delivery service (via Overnite Express).

I declare under penalty of perjury under the laws of the State of California that the above is true and correct; executed on April 1, 2008, at San Francisco, California.

  
Belinda Vega

JS 44 (Rev. 12/07) (cand rev 1-16-08)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

## I. (a) PLAINTIFFS

RANDALL J. SLOAN,

## DEFENDANTS

PFIZER, INC., a Delaware corporation; and DOES 1 through 40, inclusive.

(b) County of Residence of First Listed Plaintiff  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Daniel P. Iannitelli (SBN 203388)/Bryan L.P. Saalfeld (SBN 243331)  
Fotouhi Epps Hillger Gilroy LLP  
160 Pine St., Ste. 710, San Francisco, CA 94111  
Tel.: 415-362-9300; Fax: 415-358-5521

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Mitchell F. Boomer (SBN 121441)/Janine R. Hudson (SBN 206671)  
JACKSON LEWIS LLP  
199 Fremont St., 10th Fl., San Francisco, CA 94105-2249  
Tel.: (415) 394-9400; Fax: (415) 394-9401

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT   | TORTS  | FORFEITURE/PENALTY   | BANKRUPTCY   | OTHER STATUTES   |
|--|--|--|--|--|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 362 Personal Injury—Med. Malpractice<br><input type="checkbox"/> 365 Personal Injury—Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture<br><input type="checkbox"/> 620 Other Food & Drug<br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 630 Liquor Laws<br><input type="checkbox"/> 640 R.R. & Truck<br><input type="checkbox"/> 650 Airline Regs.<br><input type="checkbox"/> 660 Occupational Safety/Health<br><input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark   |
| <b>REAL PROPERTY</b><br><input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property   | <b>CIVIL RIGHTS</b><br><input type="checkbox"/> 441 Voting<br><input checked="" type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 444 Welfare<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 440 Other Civil Rights  | <b>PRISONER PETITIONS</b><br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><input type="checkbox"/> 530 General Habeas Corpus:<br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition   | <b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act                                       | <input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 810 Selective Service<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 875 Customer Challenge 12 USC 3410<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 892 Economic Stabilization Act<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 894 Energy Allocation Act<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
|  |  |  | <b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RS1 (405(g))  | <b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609   |

## V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Diversity of Citizenship 28 U.S.C. § 1441(a)

Brief description of cause:

Discrimination and wrongful termination.

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$**

CHECK YES only if demanded in complaint:

**JURY DEMAND:** ☐ Yes ☒ No

## VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE". No related cases.

## IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)

☒ SAN FRANCISCO/OAKLAND☐ SAN JOSE

DATE

April 7, 2008

SIGNATURE OF ATTORNEY OF RECORD